IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

WP(C).No. 33745 of 2007(P)

PETITIONER:

HCL INFOSYSTEMS LTD., IST FLOOR, MALU'S
COMPLEX, ST.FRANCIS CHURCH ROAD, KALOOR,
KOCHI - 682 017.

BY ADV. SRI.GEORGE THOMAS (MEVADA)

RESPONDENTS:

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1. THE INTELLIGENCE OFFICER,
SALES TAX, SQUAD NO.1,
KOTTAYAM.

2. M/S.ORION ELECTRONIC SYSTEMS,
THADATHIPARAMBIL BUILDING,
COLLECTORATE JUNCTION,
KOTTAYAM - 1.

R1 BY GOVT. PLEADER MR. GOVINDAN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 33745 OF 2007 P
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Dated this the 15th November, 2007

J U D G M E N T

The goods transported by the petitioner to a customer at Thiruvalla were detained as per Ext. P4. The irregularities noticed in Ext. P4 include that as per the invoice accompanying the transport, consignee's address is shown as Gospel for Asia, which is not registered under the KVAT Act. It is also stated that proper documents did not accompany the goods from Kottayam to Thiruvalla. In addition to this in Ext. P5 it is stated that though the goods are liable for tax at 12.5%, the invoice indicates 4% only.

2. In view of the nature of the allegations that are indicated in Exts. P4 and P5, I am not prepared to concede to the request of the petitioner for an unconditional release of the goods. In the nature of the allegations, this certainly calls for an enquiry in terms of the Act. If the goods are to be released, the interest of the respondents also will have to be

safeguarded. Therefore, I dispose of this writ petition directing that the goods detained as per Exts. P4, P4(A) and P5 will be released to the petitioner on condition that the petitioner furnishes a bank guarantee for 50% of the amount mentioned in Ext. P5 and furnish a bond without sureties for the balance amount, to the satisfaction of the 1st respondent. Thereafter, adjudication will continue and the parties will be governed by the order to be passed.

ANTONY DOMINIC
JUDGE

jan/-